

SENATE BILL No. 225

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-1-26.

Synopsis: Underground utility facilities. Provides that the statute concerning the locating and marking of underground utility facilities (Indiana's 811 law) does not apply to the practice of surveying, except with respect to certain specified activities. Makes a technical change.

Effective: July 1, 2015.

Crider

January 6, 2015, read first time and referred to Committee on Utilities.



First Regular Session 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

SENATE BILL No. 225

A BILL FOR AN ACT to amend the Indiana Code concerning utilities.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 8-1-26-1, AS AMENDED BY P.L.62-2009,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2015]: Sec. 1. (a) Except as provided by this section, this
4 chapter does not apply to the following:
5 (1) Excavation that is performed:
6 (A) only with a hand tool;
7 (B) on property owned or controlled by the person performing
8 the excavation; and
9 (C) to a depth not greater than twelve (12) inches.
10 (2) Excavation using only animals.
11 (3) Tilling of soil for agricultural purposes, such as plowing,
12 planting, and combining.
13 (4) Surface coal mining and reclamation operations conducted
14 under a permit issued by the natural resources commission under
15 IC 14-34.
16 (5) Railroad right-of-way maintenance or operations.



(6) Underground probing to determine the extent of gas migration.

(7) The practice of surveying (as defined in IC 25-21.5-1-7). However, sections 14, 16, 19, 20, 21, and 22 of this chapter apply to activities included in the practice of surveying that involve:

(A) the use of mechanized equipment; or

(B) driving survey markers into the ground at a depth greater than twelve (12) inches.

(b) This chapter does apply to blasting, setting drainage tile, subsoiling, and other subsurface activities.

(c) Sections 14, 16, 19, 20, 21, and 22 of this chapter apply to the construction and installation of railroad signal facilities and drainage facilities at public grade crossings.

SECTION 2. IC 8-1-26-23, AS ADDED BY P.L.62-2009, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 23. (a) The underground plant protection advisory committee is established.

(b) The advisory committee consists of the following seven (7) members appointed by the governor:

(1) One (1) member representing the association.

(2) One (1) member representing investor owned gas utilities.

(3) One (1) member representing operators of pipeline facilities or pipelines.

(4) One (1) member representing municipal gas utilities.

(5) Two (2) members representing commercial excavators.

(6) One (1) member representing providers of facility locate marking services.

(c) The term of a member is four (4) years. A member of the advisory committee serves at the pleasure of the governor. The governor shall fill a vacancy in the membership of the advisory committee for the unexpired term of the vacating member.

(d) The association and the commission shall provide staff support and meeting space to the advisory committee.

(e) The members of the advisory committee shall elect a chairperson. The advisory committee shall meet at the call of the chairperson.

(f) The affirmative vote of a majority of members appointed under subsection (b) is required to take action.

(g) The pipeline safety division shall investigate alleged violations of this chapter. If the pipeline safety division finds that a person has violated this chapter, the pipeline safety division shall forward its



finding to the advisory committee.

(h) The advisory committee shall act in an advisory capacity to the commission concerning the implementation and enforcement of this chapter. In this capacity, and subject to subsections (i) and (j), the advisory committee may recommend the following penalties with respect to persons that the pipeline safety division has found to violate this chapter:

- (1) Civil penalties consistent with this chapter.
- (2) Participation in education or training programs developed and implemented by the commission.
- (3) Warning letters.
- (4) Development of a plan to avoid future violations of this chapter.

Before making a recommendation under this subsection, the advisory committee shall provide notice to the person found to be in violation of this chapter of an opportunity to appear before the advisory committee with respect to the violation.

(i) The advisory ~~board~~ **committee** may consider the following when making a recommendation under subsection (h):

- (1) Whether the person found to be in violation of this chapter is a first time or repeat violator.
- (2) Whether the person found to be in violation of this chapter is:
 - (A) a homeowner or tenant performing excavation or demolition:
 - (i) on the homeowner's or tenant's residential property; and
 - (ii) outside an operator's easement or right of way; or
 - (B) a business entity.
- (3) The severity of the violation.

(j) If the advisory committee determines that:

- (1) the person found to be in violation of this chapter is a first time violator described in subsection (i)(2)(A); and
- (2) the violation did not result in physical harm to a person;

the advisory committee may not recommend a penalty described in subsection (h)(1) or (h)(4).

(k) Upon receiving a recommendation from the advisory committee under subsection (h), and after notice and opportunity for a public hearing, the commission shall do the following as applicable:

- (1) Uphold or reverse the finding of a violation by the pipeline safety division under subsection (g).
- (2) Approve or disapprove each recommendation of the advisory committee.
- (3) Collect any civil penalties and deposit the penalties in the



1 underground plant protection account.

